

PL 10-11

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

10,767

FILE: B-193837

DATE July 17, 1979

MATTER OF: Mr. Louis de Beer

*Request for Reimbursement of*

- DIGEST:
1. A civilian employee of a DOD agency incurred a real estate expense ~~(unexpired lease cost)~~ <sup>incurred</sup> on transfer to an overseas permanent duty station. He may not be reimbursed for such cost, notwithstanding assertion that the timing of the transfer was for the convenience of the Government, since 5 U.S.C. 5724a permits reimbursement only where both old and new stations are in the United States, Puerto Rico or Canal Zone.
  2. A Defense Department civilian employee authorized to transport his POV at Government expense on a overseas permanent change of station, under para. C11004-4 of the Joint Travel Regulations is precluded by the regulation from commercial shipment of the vehicle between port and duty station. However, under Federal Travel Regulations and that paragraph mileage may be paid between port and duty station regardless of the method of transportation used.

This action is in response to a letter dated December 18, 1978 (reference Serial: N41/534), with enclosures, from the Chief, Finance and Accounting, Central Security Service, National Security Agency (NSA), requesting an advance decision as to the propriety of making payment on a voucher in favor of Mr. Louis de Beer, an employee of NSA, representing reimbursement for certain expenses incurred by him incident to an overseas permanent change-of-station assignment in 1978. This correspondence was forwarded to this Office by endorsement of the Per Diem, Travel and Transportation Allowance Committee dated December 29, 1978, and has been assigned Control No. 78-51.

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The submission states that the employee performed permanent change of station travel from Fort George G. Meade, Maryland, to Frankfurt, Germany, under authority of Travel Order No. TP8 A0692, dated March 7, 1978. Item 15 of those orders authorized the shipment of his privately owned vehicle (POV). Among the expenses for which reimbursement was claimed incident to this travel and disallowed by NSA, was the employee's cost to have another individual pick up his POV at the port of debarkation, Bremerhaven, Germany, and deliver it to him at his official duty station, Frankfurt, Germany. The other expense item was for one-half month's rent at his old duty station which he lost on transfer.

With regard to the unexpired lease expense, the submission states that disallowance was based on the fact that the item was a real estate expense and that the applicable laws and regulations do not permit reimbursement when either the old or the new duty station are in a foreign country. In response, the claimant advanced the theory that the purpose of his permanent change of station travel at that particular time was to ensure adequate transition between the individual who he was replacing and himself. Therefore, it is argued that his unexpired lease cost was incurred for the convenience of the Government and is therefore reimbursable.

The provisions of law governing these matters are contained in 5 U.S.C. 5724a, subsection (a) of which provides in part:

"(a) Under \* \* \* regulations \* \* \* funds available to an agency for administrative expenses are available for the reimbursement \* \* \* of the following expenses of an employee \* \* \*

\* \* \* \* \*

"(4) Expenses of the sale of the residence (or the settlement of an unexpired

lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and the new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. \* \* \* (Emphasis supplied.)

Regulations issued pursuant to the foregoing are contained in Chapter 14 of Volume 2 of the Joint Travel Regulations (JTR) and set forth the above-quoted language in subparagraph C14000-1.1., thereof. Additionally, paragraph C1400-1, entitled "EXCLUSIONS" provides in part:

"The provisions of this chapter [14] do not apply to the following:

\* \* \* \* \*

"2. an employee transferred from or to a duty post outside the United States, Commonwealth of Puerto Rico, or the Canal Zone:"

Since the statute specifically prohibits reimbursement for this expense, the question of convenience of the Government is not reached. We are unaware of any other provisions of law or regulation under which the claimed unexpired lease expense may be paid.

Regarding POV transportation costs, the submission states that under provisions of the JTR's, an employee is not authorized to ship his POV from a vehicle port of debarkation to his new permanent duty station. It goes on to state that paragraph C11004-4 of these regulations does, however, authorize reimbursement of one-way transportation cost and one-way mileage, but no per diem, when the employee is required to make a separate trip to the port to pick up his vehicle and return to his new duty station. The claimant, rather than personally picking up the vehicle, hired another individual to pick it up at Bremerhaven and drive it to Frankfurt for a fee of \$50.

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The agency disallowance of that item was for the reason that the JTR's do not provide for reimbursement on that basis, expressing the view that the applicable language seems to authorize reimbursement only when the employee personally performs the travel.

Based on the foregoing, the following questions are asked:

"a. May the \$50.00 claimed for delivery of the vehicle be paid?

"b. If the claim is approved for payment, was the approval based on the fact that the method used was cost effective to the Government?

"c. If the answers to the preceding questions are in the affirmative, could reimbursement be made to employees who have had a German transport company pick up their vehicle and deliver it to their duty station?"

The authority for the transportation of a privately owned vehicle at Government expense is derived from 5 U.S.C. 5727(b). This authority is implemented by the Federal Travel Regulations (FTR) (FPMR 101-7, as amended) and for Department of Defense employees, Chapter 11 of Volume 2 of the JTR's.

Paragraph C11004-4 of Volume 2 of the JTR's, cited in the submission, provides in pertinent part:

"4. MOVEMENT FROM PORTS. An employee is not entitled to ship his privately owned motor vehicle from a vehicle port facility to his new permanent duty station. When an employee makes a separate trip to a port to reclaim his vehicle, per diem is not allowable but one-way transportation costs and one-way mileage at the rate prescribed in par. C4651-2a are authorized.

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The total of the one-way transportation cost and one-way mileage paid by the Government may not exceed the cost of shipping the privately owned vehicle from the port involved to the employee's new permanent duty station. \* \* \*

Under the FTR an employee who is authorized to have his automobile transported to his overseas duty station may have transportation authorized for all or part of the distance between origin and destination. Also, if driving the automobile for all or part of the distance between authorized origin and destination is feasible the employee may be restricted to reimbursement on a mileage basis.

Paragraph 2-10.4c of the FTR authorizes heads of agencies to determine that an employee should be expected to drive his automobile. If driven, the usual reimbursement is on a mileage basis as provided in 2-2.3 of those regulations. Although the provision contemplates that the employee or a member of his family will drive the automobile, we view that restriction as a payment limitation rather than a requirement that the transportation be performed in this specific manner. That regulation also provides for paying the cost of a trip to the port to pick up the automobile if that is required.

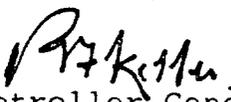
Under that basic authority paragraph C11004-4, 2 JTR, is viewed as the determination authorized by paragraph 2-10.4c, FTR--that driving an automobile between the port and the origin or destination is feasible. It follows that reimbursement on a mileage basis as provided for in the FTR is authorized when the employee does not make a specific trip to the port to deliver or pick up the automobile.

Accordingly, while the actual cost for delivery of the automobile may not be reimbursed the claimant may be paid mileage for the transportation of his automobile from Bremerhaven to Frankfurt. The only limitations on mileage paid are that it shall be as provided in paragraph 2-2.3 of the FTR and shall not exceed the commercial transportation cost. Such payment is considered as

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authorized by the applicable regulation regardless of the means used by the employee to secure transportation of the vehicle.

The questions presented are answered accordingly.

  
Deputy Comptroller General  
of the United States